

Calendar No. 297

106TH CONGRESS
1ST SESSION

S. 438

A BILL

To provide for the settlement of the water rights
claims of the Chippewa Cree Tribe of the Rocky
Boy's Reservation, and for other purposes.

SEPTEMBER 30, 1999

Committee discharged pursuant to the order of May 27,
1999; placed on the calendar

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Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 1999

Mr. BURNS (for himself and Mr. BAUCUS) introduced the following bill; which
was read twice and referred to the Committee on Energy and Natural
Resources

MAY 27, 1999

Committee discharged; referred to the Committee on Indian Affairs with in-
structions that at such time as the Committee on Indian Affairs reports
the measure, it be referred to the Committee on Energy and Natural Re-
sources for a period not to exceed 60 calendar days and that if the Com-
mittee on Energy and Natural Resources has not reported the measure
prior to the expiration of the 60 calendar day period, the Energy Com-
mittee be discharged from further consideration of the measure and that
the measure be then placed on the calendar

JULY 22, 1999

Reported by Mr. CAMPBELL, without amendment

JULY 22, 1999

Referred to the Committee on Energy and Natural Resources for a period not
to exceed 60 calendar days

SEPTEMBER 30, 1999

Committee discharged pursuant to the order of May 27, 1999; placed on the
calendar

A BILL

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chippewa Cree Tribe
 5 of the Rocky Boy's Reservation Indian Reserved Water
 6 Rights Settlement Act of 1999”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) in fulfillment of its trust responsibility to
 10 Indian tribes and to promote tribal sovereignty and
 11 economic self-sufficiency, it is the policy of the
 12 United States to settle the water rights claims of the
 13 tribes without lengthy and costly litigation;

14 (2) the Rocky Boy's Reservation was estab-
 15 lished as a homeland for the Chippewa Cree Tribe;

16 (3) adequate water for the Chippewa Cree
 17 Tribe of the Rocky Boy's Reservation is important
 18 to a permanent, sustainable, and sovereign homeland
 19 for the Tribe and its members;

20 (4) the sovereignty of the Chippewa Cree Tribe
 21 and the economy of the Reservation depend on the

1 development of the water resources of the Reserva-
2 tion;

3 (5) the planning, design, and construction of
4 the facilities needed to utilize water supplies effec-
5 tively are necessary to the development of a viable
6 Reservation economy and to implementation of the
7 Chippewa Cree-Montana Water Rights Compact;

8 (6) the Rocky Boy's Reservation is located in a
9 water-short area of Montana and the Compact con-
10 templates the development of additional water sup-
11 plies, including importation of domestic water, to
12 meet the needs of the Chippewa Cree Tribe;

13 (7) proceedings to determine the full extent of
14 the water rights of the Chippewa Cree Tribe are cur-
15 rently pending before the Montana Water Court as
16 a part of In the Matter of the Adjudication of All
17 Rights to the Use of Water, Both Surface and Un-
18 derground, within the State of Montana;

19 (8) recognizing that final resolution of the gen-
20 eral stream adjudication will take many years and
21 entail great expense to all parties, prolong uncer-
22 tainty as to the availability of water supplies, and
23 seriously impair the long-term economic planning
24 and development of all parties, the Chippewa Cree

1 Tribe and the State of Montana entered into the
2 Compact on April 14, 1997; and

3 (9) the allocation of water resources from the
4 Tiber Reservoir to the Chippewa Cree Tribe under
5 this Act is uniquely suited to the geographic, social,
6 and economic characteristics of the area and situa-
7 tion involved.

8 **SEC. 3. PURPOSES.**

9 The purposes of this Act are as follows:

10 (1) To achieve a fair, equitable, and final settle-
11 ment of all claims to water rights in the State of
12 Montana for—

13 (A) the Chippewa Cree Tribe; and

14 (B) the United States for the benefit of
15 the Chippewa Cree Tribe.

16 (2) To approve, ratify, and confirm, as modified
17 in this Act, the Chippewa Cree-Montana Water
18 Rights Compact entered into by the Chippewa Cree
19 Tribe of the Rocky Boy's Reservation and the State
20 of Montana on April 14, 1997, and to provide fund-
21 ing and other authorization necessary for the imple-
22 mentation of the Compact.

23 (3) To authorize the Secretary of the Interior
24 to execute and implement the Compact referred to in
25 paragraph (2) and to take such other actions as are

1 necessary to implement the Compact in a manner
2 consistent with this Act.

3 (4) To authorize Federal feasibility studies de-
4 signed to identify and analyze potential mechanisms
5 to enhance, through conservation or otherwise, water
6 supplies in North Central Montana, including mech-
7 anisms to import domestic water supplies for the fu-
8 ture growth of the Rocky Boy's Indian Reservation.

9 (5) To authorize certain projects on the Rocky
10 Boy's Indian Reservation, Montana, in order to im-
11 plement the Compact.

12 (6) To authorize certain modifications to the
13 purposes and operation of the Bureau of Reclama-
14 tion's Tiber Dam and Lake Elwell on the Marias
15 River in Montana in order to implement the Com-
16 pact.

17 (7) To authorize the appropriation of funds
18 necessary for the implementation of the Compact.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) COMPACT.—The term “Compact” means
22 the water rights compact between the Chippewa
23 Cree Tribe of the Rocky Boy's Reservation and the
24 State of Montana contained in section 85–20–601 of
25 the Montana Code Annotated (1997).

1 (2) FINAL.—The term “final” with reference to
2 approval of the decree in section 5(b) means comple-
3 tion of any direct appeal to the Montana Supreme
4 Court of a final decree by the Water Court pursuant
5 to section 85–2–235 of the Montana Code Anno-
6 tated (1997), or to the Federal Court of Appeals, in-
7 cluding the expiration of the time in which a petition
8 for certiorari may be filed in the United States Su-
9 preme Court, denial of such a petition, or the
10 issuance of the Supreme Court’s mandate, whichever
11 occurs last.

12 (3) FUND.—The term “Fund” means the Chip-
13 pewa Cree Indian Reserved Water Rights Settlement
14 Fund established under section 10.

15 (4) INDIAN TRIBE.—The term “Indian tribe”
16 has the meaning given that term in section 101(2)
17 of the Federally Recognized Indian Tribe List Act of
18 1994 (25 U.S.C. 479a(2)).

19 (5) MR&I FEASIBILITY STUDY.—The term
20 “MR&I feasibility study” means a municipal, rural,
21 and industrial, domestic, and incidental drought re-
22 lief feasibility study described in section 7.

23 (6) MISSOURI RIVER SYSTEM.—The term “Mis-
24 souri River System” means the mainstem of the

1 Missouri River and its tributaries, including the
2 Marias River.

3 (7) RECLAMATION LAW.—The term “Reclama-
4 tion Law” has the meaning given the term “rec-
5 lamation law” in section 4 of the Act of December
6 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

7 (8) ROCKY BOY’S RESERVATION; RESERVA-
8 TION.—The term “Rocky Boy’s Reservation” or
9 “Reservation” means the Rocky Boy’s Reservation
10 of the Chippewa Cree Tribe in Montana.

11 (9) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior, or his or her duly au-
13 thorized representative.

14 (10) TOWE PONDS.—The term “Towe Ponds”
15 means the reservoir or reservoirs referred to as
16 “Stoneman Reservoir” in the Compact.

17 (11) TRIBAL COMPACT ADMINISTRATION.—The
18 term “Tribal Compact Administration” means the
19 activities assumed by the Tribe for implementation
20 of the Compact as set forth in Article IV of the
21 Compact.

22 (12) TRIBAL WATER CODE.—The term “tribal
23 water code” means a water code adopted by the
24 Tribe, as provided in the Compact.

25 (13) TRIBAL WATER RIGHT.—

1 (A) IN GENERAL.—The term “Tribal
2 Water Right” means the water right set forth
3 in section 85–20–601 of the Montana Code An-
4 notated (1997).

5 (B) RULE OF CONSTRUCTION.—The defini-
6 tion of the term “Tribal Water Right” under
7 this paragraph and the treatment of that right
8 under this Act shall not be construed or inter-
9 preted as a precedent for the litigation of re-
10 served water rights or the interpretation or ad-
11 ministration of future compacts between the
12 United States and the State of Montana or any
13 other State.

14 (14) TRIBE.—The term “Tribe” means the
15 Chippewa Cree Tribe of the Rocky Boy’s Reserva-
16 tion and all officers, agents, and departments there-
17 of.

18 (15) WATER DEVELOPMENT.—The term “water
19 development” includes all activities that involve the
20 use of water or modification of water courses or
21 water bodies in any way.

1 **SEC. 5. RATIFICATION OF COMPACT AND ENTRY OF DE-**
2 **CREE.**

3 (a) WATER RIGHTS COMPACT APPROVED.—Except
4 as modified by this Act, and to the extent the Compact
5 does not conflict with this Act—

6 (1) the Compact, entered into by the Chippewa
7 Cree Tribe of the Rocky Boy's Reservation and the
8 State of Montana on April 14, 1997, is hereby ap-
9 proved, ratified, and confirmed; and

10 (2) the Secretary shall—

11 (A) execute and implement the Compact
12 together with any amendments agreed to by the
13 parties or necessary to bring the Compact into
14 conformity with this Act; and

15 (B) take such other actions as are nec-
16 essary to implement the Compact.

17 (b) APPROVAL OF DECREE.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the United
20 States, the Tribe, or the State of Montana shall pe-
21 tition the Montana Water Court, individually or
22 jointly, to enter and approve the decree agreed to by
23 the United States, the Tribe, and the State of Mon-
24 tana attached as Appendix 1 to the Compact, or any
25 amended version thereof agreed to by the United
26 States, the Tribe, and the State of Montana.

1 (2) RESORT TO THE FEDERAL DISTRICT
 2 COURT.—Under the circumstances set forth in Arti-
 3 cle VII.B.4 of the Compact, 1 or more parties may
 4 file an appropriate motion (as provided in that arti-
 5 cle) in the United States district court of appro-
 6 priate jurisdiction.

7 (3) EFFECT OF FAILURE OF APPROVAL TO BE-
 8 COME FINAL.—In the event the approval by the ap-
 9 propriate court, including any direct appeal, does
 10 not become final within 3 years after the filing of
 11 the decree, or the decree is approved but is subse-
 12 quently set aside by the appropriate court—

13 (A) the approval, ratification, and con-
 14 firmation of the Compact by the United States
 15 shall be null and void; and

16 (B) except as provided in sections 11(g)(1)
 17 and 13(a) and (c)(3), this Act shall be of no
 18 further force and effect.

19 **SEC. 6. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.**

20 (a) ADMINISTRATION AND ENFORCEMENT.—As pro-
 21 vided in the Compact, until the adoption and approval of
 22 a tribal water code by the Tribe, the Secretary shall ad-
 23 minister and enforce the Tribal Water Right.

24 (b) TRIBAL MEMBER ENTITLEMENT.—

1 (1) IN GENERAL.—Any entitlement to Federal
2 Indian reserved water of any tribal member shall be
3 satisfied solely from the water secured to the Tribe
4 by the Compact and shall be governed by the terms
5 and conditions of the Compact.

6 (2) ADMINISTRATION.—An entitlement de-
7 scribed in paragraph (1) shall be administered by
8 the Tribe pursuant to a tribal water code developed
9 and adopted pursuant to Article IV.A.2 of the Com-
10 pact, or by the Secretary pending the adoption and
11 approval of the tribal water code.

12 (c) TEMPORARY TRANSFER OF TRIBAL WATER
13 RIGHT.—Notwithstanding any other provision of statutory
14 or common law, the Tribe may, with the approval of the
15 Secretary and subject to the limitations and conditions set
16 forth in the Compact, including limitation on transfer of
17 any portion of the Tribal Water Right to within the Mis-
18 souri River Basin, enter into a service contract, lease, ex-
19 change, or other agreement providing for the temporary
20 delivery, use, or transfer of the water rights confirmed to
21 the Tribe in the Compact, except that no service contract,
22 lease, exchange, or other agreement entered into under
23 this subsection may permanently alienate any portion of
24 the Tribal Water Right.

1 **SEC. 7. FEASIBILITY STUDIES AUTHORIZATION.**

2 (a) MUNICIPAL, RURAL, AND INDUSTRIAL FEASI-
3 BILITY STUDY.—

4 (1) IN GENERAL.—

5 (A) STUDY.—The Secretary, through the
6 Bureau of Reclamation, shall perform an MR&I
7 feasibility study of water and related resources
8 in North Central Montana to evaluate alter-
9 natives for a municipal, rural, and industrial
10 supply for the Rocky Boy's Reservation.

11 (B) USE OF FUNDS MADE AVAILABLE FOR
12 FISCAL YEAR 1999.—The authority under sub-
13 paragraph (A) shall be deemed to apply to
14 MR&I feasibility study activities for which
15 funds were made available by appropriations for
16 fiscal year 1999.

17 (2) CONTENTS OF STUDY.—The MR&I feasi-
18 bility study shall include the feasibility of releasing
19 the Tribe's Tiber allocation as provided in section 8
20 into the Missouri River System for later diversion to
21 a treatment and delivery system for the Rocky Boy's
22 Reservation.

23 (3) UTILIZATION OF EXISTING STUDIES.—The
24 MR&I feasibility study shall include utilization of ex-
25 isting Federal and non-Federal studies and shall be
26 planned and conducted in consultation with other

1 Federal agencies, the State of Montana, and the
2 Chippewa Cree Tribe.

3 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED
4 OFF-RESERVATION SYSTEM.—The United States, the
5 Chippewa Cree Tribe of the Rocky Boy’s Reservation, and
6 the State of Montana shall not be obligated to accept or
7 participate in any potential off-Reservation water supply
8 system identified in the MR&I feasibility study authorized
9 in subsection (a).

10 (c) REGIONAL FEASIBILITY STUDY.—

11 (1) IN GENERAL.—

12 (A) STUDY.—The Secretary, through the
13 Bureau of Reclamation, shall conduct, pursuant
14 to Reclamation Law, a regional feasibility study
15 (referred to in this subsection as the “regional
16 feasibility study”) to evaluate water and related
17 resources in North-Central Montana in order to
18 determine the limitations of those resources and
19 how those resources can best be managed and
20 developed to serve the needs of the citizens of
21 Montana.

22 (B) USE OF FUNDS MADE AVAILABLE FOR
23 FISCAL YEAR 1999.—The authority under sub-
24 paragraph (A) shall be deemed to apply to re-
25 gional feasibility study activities for which

1 funds were made available by appropriations for
2 fiscal year 1999.

3 (2) CONTENTS OF STUDY.—The regional feasi-
4 bility study shall—

5 (A) evaluate existing and potential water
6 supplies, uses, and management;

7 (B) identify major water-related issues, in-
8 cluding environmental, water supply, and eco-
9 nomic issues;

10 (C) evaluate opportunities to resolve the
11 issues referred to in subparagraph (B); and

12 (D) evaluate options for implementation of
13 resolutions to the issues.

14 (3) REQUIREMENTS.—Because of the regional
15 and international impact of the regional feasibility
16 study, the study may not be segmented. The re-
17 gional study shall—

18 (A) utilize, to the maximum extent pos-
19 sible, existing information; and

20 (B) be planned and conducted in consulta-
21 tion with all affected interests, including inter-
22 ests in Canada.

23 **SEC. 8. TIBER RESERVOIR ALLOCATION.**

24 (a) ALLOCATION OF WATER TO THE TRIBE.—

1 (1) IN GENERAL.—The Secretary shall perma-
2 nently allocate to the Tribe, without cost to the
3 Tribe, 10,000 acre-feet per year of stored water
4 from the water right of the Bureau of Reclamation
5 in Lake Elwell, Lower Marias Unit, Upper Missouri
6 Division, Pick-Sloan Missouri Basin Program, Mon-
7 tana, measured at the outlet works of the dam or at
8 the diversion point from the reservoir. The allocation
9 shall become effective when the decree referred to in
10 section 5(b) has become final in accordance with
11 that section.

12 (2) AGREEMENT.—The Secretary shall enter
13 into an agreement with the Tribe setting forth the
14 terms of the allocation and providing for the Tribe's
15 use or temporary transfer of water stored in Lake
16 Elwell, subject to the terms and conditions of the
17 Compact and this Act.

18 (3) PRIOR RESERVED WATER RIGHTS.—The al-
19 location provided in this section shall be subject to
20 the prior reserved water rights, if any, of any Indian
21 tribe, or person claiming water through any Indian
22 tribe.

23 (b) USE AND TEMPORARY TRANSFER OF ALLOCA-
24 TION.—

1 (1) IN GENERAL.—Subject to the limitations
2 and conditions set forth in the Compact and this
3 Act, the Tribe shall have the right to devote the
4 water allocated by this section to any use, including
5 agricultural, municipal, commercial, industrial, min-
6 ing, or recreational uses, within or outside the Rocky
7 Boy’s Reservation.

8 (2) CONTRACTS AND AGREEMENTS.—Notwith-
9 standing any other provision of statutory or common
10 law, the Tribe may, with the approval of the Sec-
11 retary and subject to the limitations and conditions
12 set forth in the Compact, enter into a service con-
13 tract, lease, exchange, or other agreement providing
14 for the temporary delivery, use, or transfer of the
15 water allocated by this section, except that no such
16 service contract, lease, exchange, or other agreement
17 may permanently alienate any portion of the tribal
18 allocation.

19 (c) REMAINING STORAGE.—The United States shall
20 retain the right to use for any authorized purpose, any
21 and all storage remaining in Lake Elwell after the alloca-
22 tion made to the Tribe in subsection (a)(1).

23 (d) WATER TRANSPORT OBLIGATION; DEVELOP-
24 MENT AND DELIVERY COSTS.—The United States shall
25 have no responsibility or obligation to provide any facility

1 for the transport of the water allocated by this section to
 2 the Rocky Boy's Reservation or to any other location. Ex-
 3 cept for the contribution set forth in section 11(c)(3), the
 4 cost of developing and delivering the water allocated by
 5 this section or any other supplemental water to the Rocky
 6 Boy's Reservation shall not be borne by the United States.

7 (e) ACT NOT PRECEDENTIAL.—The provisions of
 8 this section regarding the allocation of water resources
 9 from the Tiber Reservoir to the Tribe shall not be con-
 10 strued as precedent in the litigation or settlement of any
 11 other Indian water right claims.

12 **SEC. 9. ON-RESERVATION WATER RESOURCES DEVELOP-**
 13 **MENT.**

14 (a) WATER DEVELOPMENT PROJECTS.—The Sec-
 15 retary, through the Bureau of Reclamation, is authorized
 16 and directed to plan, design, and construct, or to provide,
 17 pursuant to subsection (b), for the planning, design, and
 18 construction of the following water development projects
 19 on the Rocky Boy's Reservation:

- 20 (1) Bonneau Dam and Reservoir Enlargement.
- 21 (2) East Fork of Beaver Creek Dam Repair
- 22 and Enlargement.
- 23 (3) Brown's Dam Enlargement.
- 24 (4) Towe Ponds' Enlargement.

1 (5) Such other water development projects as
2 the Tribe shall from time to time consider appro-
3 priate.

4 (b) IMPLEMENTATION AGREEMENT.—The Secretary,
5 at the request of the Tribe, shall enter into an agreement,
6 or, if appropriate, renegotiate an existing agreement, with
7 the Tribe to implement the provisions of this Act through
8 the Tribe’s annual funding agreement entered into under
9 the self-governance program under title IV of the Indian
10 Self-Determination and Education Assistance Act (25
11 U.S.C. 458aa et seq.) by which the Tribe shall plan, de-
12 sign, and construct any or all of the projects authorized
13 by this section.

14 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-
15 TRATION.—

16 (1) IN GENERAL.—Congress finds that the Sec-
17 retary, through the Bureau of Reclamation, has en-
18 tered into an agreement with the Tribe, pursuant to
19 title IV of the Indian Self-Determination and Edu-
20 cation Assistance Act (25 U.S.C. 458aa et seq.)—

21 (A) defining and limiting the role of the
22 Bureau of Reclamation in its administration of
23 the projects authorized in subsection (a);

24 (B) establishing the standards upon which
25 the projects will be constructed; and

1 (C) for other purposes necessary to imple-
 2 ment this section.

3 (2) AGREEMENT.—The agreement referred to
 4 in paragraph (1) shall become effective when the
 5 Tribe exercises its right under subsection (b).

6 **SEC. 10. CHIPPEWA CREE INDIAN RESERVED WATER**
 7 **RIGHTS SETTLEMENT TRUST FUND.**

8 (a) ESTABLISHMENT OF TRUST FUND.—

9 (1) IN GENERAL.—

10 (A) ESTABLISHMENT.—There is hereby es-
 11 tablished in the Treasury of the United States
 12 a trust fund for the Chippewa Cree Tribe of the
 13 Rocky Boy's Reservation to be known as the
 14 "Chippewa Cree Indian Reserved Water Rights
 15 Settlement Trust Fund".

16 (B) AVAILABILITY OF AMOUNTS IN
 17 FUND.—

18 (i) IN GENERAL.—Amounts in the
 19 Fund shall be available to the Secretary
 20 for management and investment on behalf
 21 of the Tribe and distribution to the Tribe
 22 in accordance with this Act.

23 (ii) AVAILABILITY.—Funds made
 24 available from the Fund under this section

1 shall be available without fiscal year limita-
2 tion.

3 (2) MANAGEMENT OF FUND.—The Secretary
4 shall deposit and manage the principal and interest
5 in the Fund in a manner consistent with subsection
6 (b) and other applicable provisions of this Act.

7 (3) CONTENTS OF FUND.—The Fund shall con-
8 sist of the amounts authorized to be appropriated to
9 the Fund under section 11(c) and such other
10 amounts as may be transferred or credited to the
11 Fund.

12 (4) WITHDRAWAL.—The Tribe, with the ap-
13 proval of the Secretary, may withdraw the Fund and
14 deposit it in a mutually agreed upon private finan-
15 cial institution. That withdrawal shall be made pur-
16 suant to the American Indian Trust Fund Manage-
17 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

18 (5) ACCOUNTS.—The Secretary of the Interior
19 shall establish the following accounts in the Fund
20 and shall allocate appropriations to the various ac-
21 counts as required in this Act:

22 (A) The Tribal Compact Administration
23 Account.

24 (B) The Economic Development Account.

1 (C) The Future Water Supply Facilities
2 Account.

3 (b) FUND MANAGEMENT.—

4 (1) IN GENERAL.—

5 (A) AMOUNTS IN FUND.—The Fund shall
6 consist of such amounts as are appropriated to
7 the Fund and allocated to the accounts of the
8 Fund by the Secretary as provided in this Act
9 and in accordance with the authorizations for
10 appropriations in paragraphs (1), (2), and (3)
11 of section 11(c), together with all interest that
12 accrues in the Fund.

13 (B) MANAGEMENT BY SECRETARY.—The
14 Secretary shall manage the Fund, make invest-
15 ments from the Fund, and make available funds
16 from the Fund for distribution to the Tribe in
17 a manner consistent with the American Indian
18 Trust Fund Management Reform Act of 1994
19 (25 U.S.C. 4001 et seq.).

20 (2) TRIBAL MANAGEMENT.—

21 (A) IN GENERAL.—If the Tribe exercises
22 its right pursuant to subsection (a)(4) to with-
23 draw the Fund and deposit it in a private fi-
24 nancial institution, except as provided in the
25 withdrawal plan, neither the Secretary nor the

1 Secretary of the Treasury shall retain any over-
2 sight over the accounting, disbursement, or in-
3 vestment of the funds.

4 (B) WITHDRAWAL PLAN.—The withdrawal
5 plan shall provide for—

6 (i) the creation of accounts and allo-
7 cation to accounts in a fund established
8 under the plan in a manner consistent with
9 subsection (a); and

10 (ii) the appropriate terms and condi-
11 tions, if any, on expenditures from the
12 fund (in addition to the requirements of
13 the plans set forth in paragraphs (2) and
14 (3) of subsection (c)).

15 (c) USE OF FUND.—The Tribe shall use the Fund
16 to fulfill the purposes of this Act, subject to the following
17 restrictions on expenditures:

18 (1) Except for \$400,000 necessary for capital
19 expenditures in connection with the Tribal Compact
20 Administration, only interest accrued on the Tribal
21 Compact Administration Account referred to in sub-
22 section (a)(5)(A) shall be available to satisfy the
23 Tribe's obligations for Tribal Compact Administra-
24 tion under the provisions of the Compact.

1 (2) Both principal and accrued interest on the
 2 Economic Development Account referred to in sub-
 3 section (a)(5)(B) shall be available to the Tribe for
 4 expenditure pursuant to an economic development
 5 plan approved by the Secretary.

6 (3) Both principal and accrued interest on the
 7 Future Water Supply Facilities Account referred to
 8 in subsection (a)(5)(C) shall be available to the
 9 Tribe for expenditure pursuant to a water supply
 10 plan approved by the Secretary.

11 (d) INVESTMENT OF FUND.—

12 (1) IN GENERAL.—

13 (A) APPLICABLE LAWS.—The Secretary
 14 shall invest amounts in the Fund in accordance
 15 with—

16 (i) the Act of April 1, 1880 (21 Stat.
 17 70, chapter 41; 25 U.S.C. 161);

18 (ii) the first section of the Act entitled
 19 “An Act to authorize the payment of inter-
 20 est of certain funds held in trust by the
 21 United States for Indian tribes”, approved
 22 February 12, 1929 (25 U.S.C. 161a); and

23 (iii) the first section of the Act enti-
 24 tled “An Act to authorize the deposit and

1 investment of Indian funds”, approved
2 June 24, 1938 (25 U.S.C. 162a).

3 (B) CREDITING OF AMOUNTS TO THE
4 FUND.—The interest on, and the proceeds from
5 the sale or redemption of, any obligations of the
6 United States held in the Fund shall be cred-
7 ited to and form part of the Fund. The Sec-
8 retary of the Treasury shall credit to each of
9 the accounts contained in the Fund a propor-
10 tionate amount of that interest and proceeds.

11 (2) CERTAIN WITHDRAWN FUNDS.—

12 (A) IN GENERAL.—Amounts withdrawn
13 from the Fund and deposited in a private finan-
14 cial institution pursuant to a withdrawal plan
15 approved by the Secretary under the American
16 Indian Trust Fund Management Reform Act of
17 1994 (25 U.S.C. 4001 et seq.) shall be invested
18 by an appropriate official under that plan.

19 (B) DEPOSIT OF INTEREST AND PRO-
20 CEEDS.—The interest on, and the proceeds
21 from the sale or redemption of, any obligations
22 held under this paragraph shall be deposited in
23 the private financial institution referred to in
24 subparagraph (A) in the fund established pur-
25 suant to the withdrawal plan referred to in that

1 subparagraph. The appropriate official shall
2 credit to each of the accounts contained in that
3 fund a proportionate amount of that interest
4 and proceeds.

5 (e) AGREEMENT REGARDING FUND EXPENDI-
6 TURES.—If the Tribe does not exercise its right under
7 subsection (a)(4) to withdraw the funds in the Fund and
8 transfer those funds to a private financial institution, the
9 Secretary shall enter into an agreement with the Tribe
10 providing for appropriate terms and conditions, if any, on
11 expenditures from the Fund in addition to the plans set
12 forth in paragraphs (2) and (3) of subsection (c).

13 (f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No
14 part of the Fund shall be distributed on a per capita basis
15 to members of the Tribe.

16 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the
18 amounts made available by appropriations for fiscal year
19 1999 for the Bureau of Reclamation, \$1,000,000 shall be
20 used for the purpose of commencing the MR&I feasibility
21 study under section 7(a) and the regional study under sec-
22 tion 7(c), of which—

23 (1) \$500,000 shall be used for the MR&I study
24 under section 7(a); and

1 (2) \$500,000 shall be used for the regional
2 study under section 7(c).

3 (b) FEASIBILITY STUDIES.—There is authorized to
4 be appropriated to the Department of the Interior, for the
5 Bureau of Reclamation, for the purpose of conducting the
6 MR&I feasibility study under section 7(a) and the regional
7 study under section 7(c), \$3,000,000 for fiscal year 2000,
8 of which—

9 (1) \$500,000 shall be used for the MR&I feasi-
10 bility study under section 7(a); and

11 (2) \$2,500,000 shall be used for the regional
12 study under section 7(c).

13 (c) CHIPPEWA CREE FUND.—There is authorized to
14 be appropriated for the Fund, \$21,000,000 to be allocated
15 by the Secretary as follows:

16 (1) TRIBAL COMPACT ADMINISTRATION AC-
17 COUNT.—For Tribal Compact Administration as-
18 sumed by the Tribe under the Compact and this Act,
19 \$3,000,000 is authorized to be appropriated for fis-
20 cal year 2000.

21 (2) ECONOMIC DEVELOPMENT ACCOUNT.—For
22 tribal economic development, \$3,000,000 is author-
23 ized to be appropriated for fiscal year 2000.

24 (3) FUTURE WATER SUPPLY FACILITIES AC-
25 COUNT.—For the total Federal contribution to the

1 planning, design, construction, operation, mainte-
 2 nance, and rehabilitation of a future water supply
 3 system for the Reservation, there are authorized to
 4 be appropriated—

5 (A) \$2,000,000 for fiscal year 2000;

6 (B) \$8,000,000 for fiscal year 2001; and

7 (C) \$5,000,000 for fiscal year 2002.

8 (d) ON-RESERVATION WATER DEVELOPMENT.—

9 (1) IN GENERAL.—There are authorized to be
 10 appropriated to the Department of the Interior, for
 11 the Bureau of Reclamation, for the construction of
 12 the on-Reservation water development projects au-
 13 thorized by section 9—

14 (A) \$13,000,000 for fiscal year 2000, for
 15 the planning, design, and construction of the
 16 Bonneau Dam enlargement, for the develop-
 17 ment of additional capacity in Bonneau Res-
 18 ervoir for storage of water secured to the Tribe
 19 under the Compact;

20 (B) \$8,000,000 for fiscal year 2001, for
 21 the planning, design, and construction of the
 22 East Fork Dam and Reservoir enlargement, of
 23 the Brown's Dam and Reservoir enlargement,
 24 and of the Towe Ponds enlargement of which—

1 (i) \$4,000,000 shall be used for the
 2 East Fork Dam and Reservoir enlarge-
 3 ment;

4 (ii) \$2,000,000 shall be used for the
 5 Brown's Dam and Reservoir enlargement;
 6 and

7 (iii) \$2,000,000 shall be used for the
 8 Towe Ponds enlargement; and

9 (C) \$3,000,000 for fiscal year 2002, for
 10 the planning, design, and construction of such
 11 other water resource developments as the Tribe,
 12 with the approval of the Secretary, from time to
 13 time may consider appropriate or for the com-
 14 pletion of the 4 projects enumerated in sub-
 15 paragraphs (A) and (B) of paragraph (1).

16 (2) UNEXPENDED BALANCES.—Any unex-
 17 pended balance in the funds authorized to be appro-
 18 priated under subparagraph (A) or (B) of paragraph
 19 (1), after substantial completion of all of the
 20 projects enumerated in paragraphs (1) through (4)
 21 of section 9(a)—

22 (A) shall be available to the Tribe first for
 23 completion of the enumerated projects; and

24 (B) then for other water resource develop-
 25 ment projects on the Reservation.

1 (e) ADMINISTRATION COSTS.—There is authorized to
2 be appropriated to the Department of the Interior, for the
3 Bureau of Reclamation, \$1,000,000 for fiscal year 2000,
4 for the costs of administration of the Bureau of Reclama-
5 tion under this Act, except that—

6 (1) if those costs exceed \$1,000,000, the Bu-
7 reau of Reclamation may use funds authorized for
8 appropriation under subsection (d) for costs; and

9 (2) the Bureau of Reclamation shall exercise its
10 best efforts to minimize those costs to avoid expendi-
11 tures for the costs of administration under this Act
12 that exceed a total of \$1,000,000.

13 (f) AVAILABILITY OF FUNDS.—

14 (1) IN GENERAL.—The amounts authorized to
15 be appropriated to the Fund and allocated to its ac-
16 counts pursuant to subsection (c) shall be deposited
17 into the Fund and allocated immediately on appro-
18 priation.

19 (2) INVESTMENTS.—Investments may be made
20 from the Fund pursuant to section 10(d).

21 (3) AVAILABILITY OF CERTAIN MONEYS.—The
22 amounts made available for use under subsection (a)
23 shall be deemed to have been available for use as of
24 the date on which those funds were appropriated.
25 The amounts authorized to be appropriated in sub-

1 sections (b) and (c)(1) shall be available for use im-
 2 mediately upon appropriation.

3 (4) LIMITATION.—Those moneys allocated by
 4 the Secretary to accounts in the Fund or in a fund
 5 established under section 10(a)(4) shall draw inter-
 6 est consistent with section 10(d), but the moneys au-
 7 thorized to be appropriated under subsection (d) and
 8 paragraphs (2) and (3) of subsection (c) shall not be
 9 available for expenditure until the requirements of
 10 section 5(b) have been met so that the decree has
 11 become final and the Tribe has executed the waiver
 12 and release required under section 13(c).

13 (g) RETURN OF FUNDS TO THE TREASURY.—

14 (1) IN GENERAL.—In the event that the ap-
 15 proval, ratification, and confirmation of the Compact
 16 by the United States becomes null and void under
 17 section 5(b), all unexpended funds appropriated
 18 under the authority of this Act together with all in-
 19 terest earned on such funds, notwithstanding wheth-
 20 er the funds are held by the Tribe, a private institu-
 21 tion, or the Secretary, shall revert to the general
 22 fund of the Treasury 12 months after the expiration
 23 of the deadline established in section 5(b).

24 (2) INCLUSION IN AGREEMENTS AND PLAN.—

25 The requirements in paragraph (1) shall be included

1 in all annual funding agreements entered into under
 2 the self-governance program under title IV of the In-
 3 dian Self-Determination and Education Assistance
 4 Act (25 U.S.C. 458aa et seq.), withdrawal plans,
 5 withdrawal agreements, or any other agreements for
 6 withdrawal or transfer of the funds to the Tribe or
 7 a private financial institution under this Act.

8 (h) WITHOUT FISCAL YEAR LIMITATION.—All money
 9 appropriated pursuant to authorizations under this Act
 10 shall be available without fiscal year limitation.

11 **SEC. 12. STATE CONTRIBUTIONS TO SETTLEMENT.**

12 Consistent with Articles VI.C.2 and C.3 of the Com-
 13 pact, the State contribution to settlement shall be as fol-
 14 lows:

15 (1) The contribution of \$150,000 appropriated
 16 by Montana House Bill 6 of the 55th Legislative
 17 Session (1997) shall be used for the following pur-
 18 poses:

19 (A) Water quality discharge monitoring
 20 wells and monitoring program.

21 (B) A diversion structure on Big Sandy
 22 Creek.

23 (C) A conveyance structure on Box Elder
 24 Creek.

1 (D) The purchase of contract water from
2 Lower Beaver Creek Reservoir.

3 (2) Subject to the availability of funds, the
4 State shall provide services valued at \$400,000 for
5 administration required by the Compact and for
6 water quality sampling required by the Compact.

7 **SEC. 13. MISCELLANEOUS PROVISIONS.**

8 (a) NONEXERCISE OF TRIBE'S RIGHTS.—Pursuant
9 to Tribal Resolution No. 40–98, and in exchange for bene-
10 fits under this Act, the Tribe shall not exercise the rights
11 set forth in Article VII.A.3 of the Compact, except that
12 in the event that the approval, ratification, and confirma-
13 tion of the Compact by the United States becomes null
14 and void under section 5(b), the Tribe shall have the right
15 to exercise the rights set forth in Article VII.A.3 of the
16 Compact.

17 (b) WAIVER OF SOVEREIGN IMMUNITY.—Except to
18 the extent provided in subsections (a), (b), and (c) of sec-
19 tion 208 of the Department of Justice Appropriation Act,
20 1953 (43 U.S.C. 666), nothing in this Act may be con-
21 strued to waive the sovereign immunity of the United
22 States.

23 (c) TRIBAL RELEASE OF CLAIMS AGAINST THE
24 UNITED STATES.—

1 (1) IN GENERAL.—Pursuant to Tribal Resolu-
2 tion No. 40–98, and in exchange for benefits under
3 this Act, the Tribe shall, on the date of enactment
4 of this Act, execute a waiver and release of the
5 claims described in paragraph (2) against the United
6 States, the validity of which are not recognized by
7 the United States, except that—

8 (A) the waiver and release of claims shall
9 not become effective until the appropriation of
10 the funds authorized in section 11 has been
11 completed and the decree has become final in
12 accordance with the requirements of section
13 5(b); and

14 (B) in the event that the approval, ratifica-
15 tion, and confirmation of the Compact by the
16 United States becomes null and void under sec-
17 tion 5(b), the waiver and release of claims shall
18 become null and void.

19 (2) CLAIMS DESCRIBED.—The claims referred
20 to in paragraph (1) are as follows:

21 (A) Any and all claims to water rights (in-
22 cluding water rights in surface water, ground
23 water, and effluent), claims for injuries to
24 water rights, claims for loss or deprivation of
25 use of water rights, and claims for failure to ac-

1 quire or develop water rights for lands of the
2 Tribe from time immemorial to the date of rati-
3 fication of the Compact by Congress.

4 (B) Any and all claims arising out of the
5 negotiation of the Compact and the settlement
6 authorized by this Act.

7 (3) SETOFFS.—In the event the waiver and re-
8 lease do not become effective as set forth in para-
9 graph (1)—

10 (A) the United States shall be entitled to
11 setoff against any claim for damages asserted
12 by the Tribe against the United States, any
13 funds transferred to the Tribe pursuant to sec-
14 tion 11, and any interest accrued thereon up to
15 the date of setoff; and

16 (B) the United States shall retain any
17 other claims or defenses not waived in this Act
18 or in the Compact as modified by this Act.

19 (d) OTHER TRIBES NOT ADVERSELY AFFECTED.—
20 Nothing in this Act is intended to quantify or otherwise
21 adversely affect the land and water rights, or claims or
22 entitlements to land or water of an Indian tribe other than
23 the Chippewa Cree Tribe.

24 (e) ENVIRONMENTAL COMPLIANCE.—In imple-
25 menting the Compact, the Secretary shall comply with all

1 aspects of the National Environmental Policy Act of 1969
2 (42 U.S.C. 4321 et seq.), the Endangered Species Act of
3 1973 (16 U.S.C. 1531 et seq.), and all other applicable
4 environmental Acts and regulations.

5 (f) EXECUTION OF COMPACT.—The execution of the
6 Compact by the Secretary as provided for in this Act shall
7 not constitute a major Federal action under the National
8 Environmental Policy Act (42 U.S.C. 4321 et seq.). The
9 Secretary is directed to carry out all necessary environ-
10 mental compliance required by Federal law in imple-
11 menting the Compact.

12 (g) CONGRESSIONAL INTENT.—Nothing in this Act
13 is intended to—

14 (1) alter the trust responsibility of the United
15 States to the Tribe; or

16 (2) prohibit the Tribe from seeking additional
17 authorization or appropriation of funds for tribal
18 programs or purposes.

19 (h) ACT NOT PRECEDENTIAL.—Nothing in this Act
20 shall be construed or interpreted as a precedent for the
21 litigation of reserved water rights or the interpretation or
22 administration of future water settlement Acts.